IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 23982 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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NAIMESH RAMJIBHAI CHUHAN & 1 - Petitioner(s)
Versus
NAVJIVAN NAGRIK CO-OP CREDIT AND SUPPLY SOCIETY LTD - Respondent(s)

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Appearance :

MR CHIRAG B PATEL for Petitioner(s) : 1 - 2.
MR RAVINDRA SHAH for Respondent(s) : 1,
MRS KANAN R SHAH for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 26/06/2006

ORAL JUDGMENT

1. Rule. Learned advocate Shri Shah waives service of rule on behalf of the respondent Society.
2. In the present petition, the petitioners have

challenged the orders passed by the Board of Nominees as well as by the Cooperative Tribunal. The respondent herein has instituted a summary suit for recovering an amount of Rs.14,799/-. The petitioners were granted conditional leave to defend the proceedings. However, such conditions were not fulfilled. Orders passed by the Board of Nominees were, therefore, challenged before the Cooperative Tribunal where also the petitioners failed.

3. Learned advocate for the petitioners submitted that the petitioners had valid defence and that in fact, the petitioners had already deposited the entire amount to the respondent Society. It is further submitted that the necessary notices were not issued by the Board of Directors due to which the petitioners could not fulfill the condition for defending the suit. Be that as it may, in the facts of the present case, I find it appropriate that the petitioners may have the liberty to defend the lavad suit. However, the petitioners should deposit the entire amount as prayed for in the suit by the respondent Society. This condition is being imposed considering the smallness of the amount and the readiness shown by the learned advocate for the petitioners.

4. Under the circumstances, the impugned orders passed by the Board of Nominees as well as the Cooperative Tribunal are quashed. The Board of Nominee shall proceed with the lavad suit filed

by the respondent Society by permitting the petitioners to defend the suit on the condition that the petitioners deposit the suit amount before the society within a period of two weeks from today. Such deposit shall be adjusted subject to the outcome of the lavad suit. Rule is made absolute to the above extent with no order as to costs.

(Akil Kureshi, J.)

(vjn)